

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 8574 of 1995

For Approval and Signature:

Hon'ble MISS JUSTICE R.M.DOSHIT

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

PRAVINCHANDRA AMBALAL PATEL

Versus

SARDAR PATEL INSTITUTE OF ECONOMIC AND SOCIAL RESEARCH

Appearance:

MR AJ SHASTRI for Petitioner
MR HARSHAD J SHAH for Respondent No. 1
MS MAHROOK KERRAVALA for Respondent No. 3
SERVED BY DS for Respondent No. 4

CORAM : MISS JUSTICE R.M.DOSHIT

Date of decision: 17/07/97

ORAL JUDGEMENT

Petitioner is at present serving as Personal Assistant to the Director of respondent No.1 Institute. He claims that in course of his service, he has acquired wide and long administrative experience and he is eligible for promotion as an Administrative Officer under respondent-Institute. However, in utter disregard of the qualifications possessed by him and the experience gained by him, his case for such promotion was not considered by the respondent-Institute and the petitioner has been arbitrarily precluded from the consideration for further

promotion to the post of Administrative Officer.

2. The respondent-Institute (hereinafter referred to as the Institute) has framed its recruitment and promotion policy (Annexure-I to the Affidavit-in-reply). According to the said policy, the post of Personal Assistant to the Director is considered to be an administrative post. The said policy also lays down, interalia, the necessary qualification for promotion or appointment to the post of Administrative Officer. The qualifications required are as under :

- (a) Bachelor's Degree.
- (b) Ten years of office experience.
- (3) Law Degree and knowledge of Economics preferred.

It is undisputed that the petitioner possesses a Bachelor's Degree and also a Degree in Law. The petitioner, therefore, claims a right to preference in view of his Law Degree. It is the grievance of the petitioner that though the petitioner was eligible for being considered for such promotion, his case for promotion was not placed before the Personnel Sub Committee and without the petitioner's case being considered, the Personnel Sub Committee selected the respondent no.3 and promoted him as an Administrative Officer. Feeling aggrieved, the petitioner has preferred this petition. Mr. Shastri appearing for the petitioner has relied upon the Office Memo (Annexure-A to the petition). He has submitted that the petitioner was assigned several administrative duties and, thus, in his capacity as Personal Assistant, he has gained administrative experience. He has further submitted that the petitioner's case was never considered by the Personnel Sub Committee. However, in view of the present petition preferred by the petitioner, the minutes were drawn as if the petitioner's case for promotion was considered. He alleges that the minutes (Annexure-II to the affidavit-in-reply) is not correctly drawn and the same can not be relied upon. Mr. Shastri, however, conceded that there is no material to show that the minutes does not project the proceedings of the meeting correctly. It is merely a belief of the petitioner that the minutes is drawn subsequently and it does not project the proceedings of the meeting correctly. I am of the view that such an allegation, not supported by cogent evidence, can not be accepted.

4. As far as the question of petitioner's claim for promotion is concerned, the Director of the Institute has made a counter-affidavit, and has submitted that the

petitioner had not gained office experience as alleged by him. He has stated that being the Personal Assistant to the Director, the petitioner was not required to perform any administrative duty and whatever duties the petitioner has performed, can not be said to be an office experience. However, in view of the representation made by the petitioner, petitioner's case was considered. It is reflected in the minutes of the meeting as well as affidavit made by the Director that the petitioner's case was considered and the additional qualification of Law Degree possessed by him was also considered. Considering the relevant material, the Personnel Sub Committee found the respondent no.3 to be more suitable for the post of Administrative Officer. Respondent No.3 has a long administrative experience as well as knowledge of Economics. Considering all these facts and since the respondent No.3 has been found to be more suitable, this court, exercising the powers of judicial review, can not sit in appeal over the decision of the Personnel Sub Committee and interfere with the decision taken by the said Committee. As I have referred to hereinabove, the cases of the petitioner as well as the respondent No.3 were considered by the Personnel Sub Committee and considering the relevant material, the respondent no.3 was found to be more suitable for the post of Administrative Officer. The selection and appointment of the respondent No.3 as an Administrative Officer, therefore, can not be interfered with. It is highly disputed whether the petitioner had ten years office experience as was required of him. However, even if it is assumed that the petitioner had such experience, all that the petitioner had was a right to be considered for promotion. Petitioner has been considered, however, he has not been found suitable to hold the post of Administrative Officer. In that view of the matter, petitioner can not claim promotion to the post of Administrative Officer. Petition is, therefore, dismissed. Rule is discharged. There shall be no order as to costs.

JOSHI